

Applicant : Cemal Shener et al.  
Serial No. : 10/685,590  
Filed : October 16, 2003  
Page : 11 of 16

Attorney's Docket No.: 00167-460001 / 02-31-0389

Amendments to the Drawings:

The attached replacement sheet of drawings includes changes to Fig. 1F and replaces the original sheet including Fig.1F.

In Figure 1F, reference numeral "175" has been changed to reference numeral "176."

Attachments following last page of this Amendment:

Replacement Sheet (1 page)  
Annotated Sheet Showing Change(s) (1 page)

### REMARKS

Claims 1-8, 11-18 and 20-34 are pending in this application, with claims 1, 27-30, 33 and 34 being independent. Claims 1 and 28-30 have been amended, claims 9, 10 and 19 have been canceled, and claims 31-34 have been added. No new matter has been added.

The drawings and the specification have been objected to as using the same reference character "175" to designate both an inflow port and L-shaped channels. Applicants have amended the drawings and the specification to use the reference character "176" to designate the L-shaped channels. Accordingly, applicants request reconsideration and withdrawal of this objection.

Applicants acknowledge with appreciation the Examiners indication that claim 18 is directed to allowable subject matter. Claim 18 has been rewritten in independent form as new claim 34.

Claim 29 has been rejected as being indefinite because the recited term "the operative device" lacks antecedent basis. Applicants have amended claim 29 to recite "an operative device" per the Examiner's suggestion.

### Rejections Based on Glowa

Independent claim 1, along with its dependent claims 2-14 and 19-26, and independent claims 27-30 have been rejected as being anticipated by Glowa (U.S. Patent No. 6,086,542).

Independent claim 1, as amended, recites an endoscopic device including, among other features, an inner portion and "a sheath defining a channel configured to removably receive the inner portion." Glowa does not describe or suggest the recited sheath. Rather, outer tubular member 60 (which the Examiner equates to the recited sheath) is fixedly joined at 64 with inner tubular member 30 (which the Examiner equates to the recited inner portion). See Glowa at Fig. 2 and col. 4, lines 8-10.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 1 and its dependent claims 2-14 and 19-26.

Independent claim 27, as amended, recites a method for performing a surgical procedure at a body site that includes, among other features, "the operative device being positioned within the operative channel while the optical channel houses the optical device." Independent claim 28, as amended, recites an endoscopic device including a continuous flow endoscope defining, among other features, "an operative channel... configured to receive an operative device... while [an] optical channel houses [an] optical device. Glowa does not describe or suggest at least these features.

The Examiner's rejection states in part "Glowa et al. discloses an inner portion (30) defining an operative channel (42) and an optical channel (36)." However, in Glowa, with scope 36 positioned in inner tubular member 30, annular channel 42 cannot receive an operative device because of the presence of scope 36 and the configuration of Glowa's body 12 (see Glowa, Fig. 1).

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claims 27 and 28.

Independent claim 29 recites an endoscopic device including, among other features, a sheath and "a pressure-sensing port that maintains coupling between the pressure sensor and the pressure-sensing channel as the pressure-sensing port is rotated relative to the sheath and about a longitudinal axis of the sheath." Applicants request reconsideration and withdrawal of the rejection of claim 29 because Glowa does not describe or suggest the recited pressure-sensing port.

In Glowa, port 18, which the Examiner equates to the recited port, is connected with annular channel 52, which the Examiner equates to the recited pressure-sensing channel. Glowa, however, does not describe or suggest that port 18 may be rotated about a longitudinal axis of outer tubular member 60, which the Examiner equates to the recited sheath, much less that port 18 may maintain a coupling between a pressure sensor and annular channel 52 as such rotation occurs. The Examiner provides no support for his contention that "port (18) will, if properly connected, maintain its connection no matter how the port is rotated."

For at least these reasons, applicants request reconsideration and withdrawal of the rejection of claim 29.

Independent claim 30, as amended, recites, among other features, an “inner portion including an alignment element” and a “sheath including an alignment element that aligns with the alignment element of the inner portion such that in use, when assembling the inner portion and the sheath, the alignment elements align the inner portion and the sheath. In Glowa, inner tubular member 30 and outer tubular member 60 are fixedly joined at 64. Accordingly, inner tubular member 30 and outer tubular member 60 do not include alignment elements that align the inner tubular member 30 with the outer tubular member 60 when assembling the members in use. For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 30.

New independent claim 33 recites that an inner member defines an operative channel configured to receive an operative device and that the inner member defines an optical channel. As posited by the examiner, if one considers scope 36 to be the optical channel and annular channel 42 as the operative channel, annular channel 42 is not configured to receive an operative device because of the presence of scope 36 and the configuration of Glowa's body 12, as discussed above. Therefore, for at least this reason, claim 33 is patentable over Glowa.

#### **Rejections Based on Vukovic**

Independent claim 1, along with its dependent claims 2-17 and 19-26, and independent claims 28-30 have been rejected as being anticipated by Vukovic (U.S. Patent No. 4,369,768). Independent claims 1 and 30, as amended, each recite an endoscopic device including, among other features “a sheath ...surrounding the inner portion to define a pressure-sensing channel and a fluid channel providing a path for fluid to or from the body site... wherein the pressure-sensing channel and the fluid channel are segregated to limit fluid communication between the channels.”

In Vukovic, the upper irrigation channel 38, which the Examiner equates to the recited pressure-sensing channel, and the lower irrigation channel 38, which the Examiner equates to the

recited fluid channel, join to form one channel fed through a common valve 34. Accordingly, the upper irrigation channel 38 and the lower irrigation channel 38 are not segregated to limit fluid communication between the channels, as claimed.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 1 and its dependent claims 2-17 and 19-26, and claim 30.

Regarding independent claim 28, in Vukovic, instrument channel 44, which the Examiner equates to the recited operative channel, is not configured to receive an operative device while providing an inflow path for fluid to a body site, as now claimed. Rather, once instrument channel 44 receives an instrument 15, entryway 18A provides a fluid tight connection with the instrument that prevents instrument channel 44 from providing a path for fluid to or from the body site.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 28.

Independent claim 29, as amended, recites an endoscopic device including, among other features, a sheath and "a pressure-sensing port that maintains coupling between the pressure sensor and the pressure-sensing channel as the pressure-sensing port is rotated relative to the sheath and about a longitudinal axis of the sheath." Applicants request reconsideration and withdrawal of the rejection of claim 29 because Vukovic does not describe or suggest the recited pressure-sensing port.

In Vukovic, valve 34 is connected with upper irrigation channel 38, which the Examiner equates to the recited pressure-sensing channel, presumably through a port (though the Examiner has not identified any such port nor explicitly addressed claim 29 in the rejection). However, Vukovic does not describe or suggest that this presumed port may be rotated about a longitudinal axis of sheath 30, which the Examiner equates to the recited sheath, much less that the port may maintain a coupling between a pressure sensor and upper irrigation channel 38 as such rotation occurs.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 29.

New independent claim 33 recites an "operative channel configured to receive an operative device while providing a path for fluid to or from the body site.". For at least the reasons described above for claim 28, claim 33 is patentable over Vukovic.

Applicants submit that all claims are in condition for allowance.

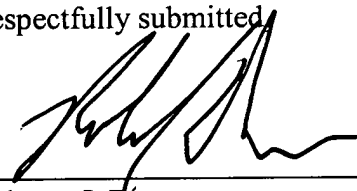
Applicants do not acquiesce in the Examiner's characterizations of the art. For brevity and to advance prosecution, however, applicants may have not addressed all characterizations of the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by the applicants to any of the examiner's positions does not constitute a concession of the examiner's positions. The fact that applicant's comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. All of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

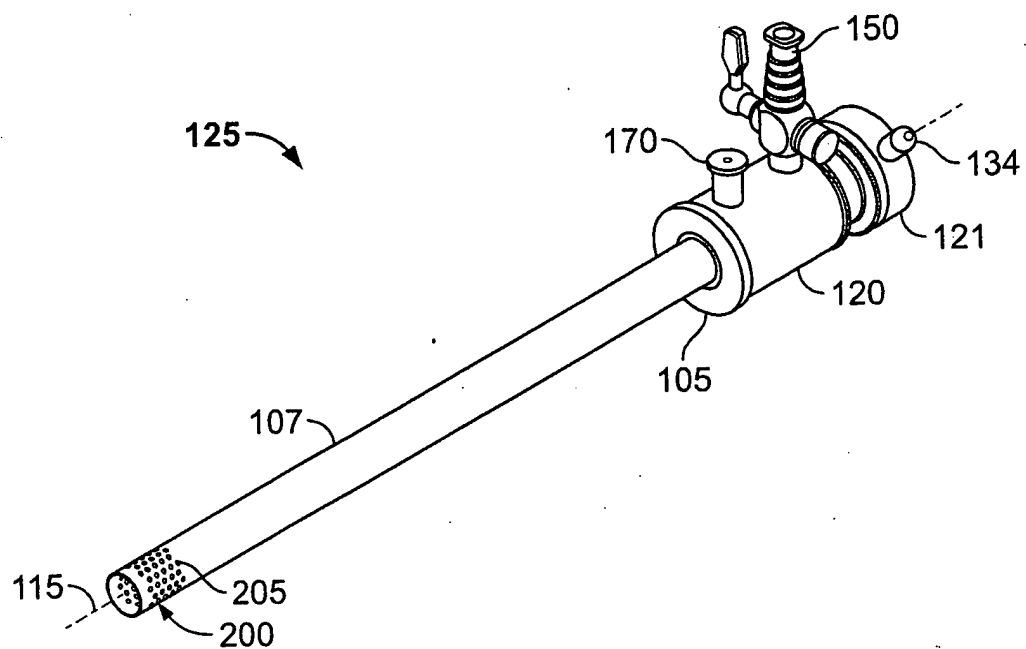
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# ANNOTATED SHEET



**FIG. 1E**

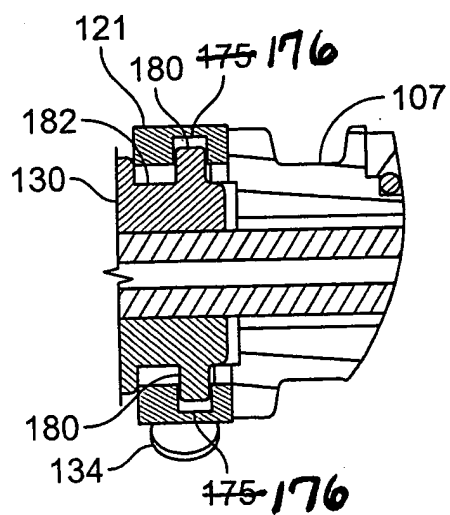


FIG. 1F